

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JACQ AUS L. MARTIN,

Petitioner,

vs.

ROBERT HOUSTON,

Respondent.

)
)
)
)
)
)
)
)
)
)

4:05cv3049

AMENDED PROGRESSION ORDER

This matter is before the court to facilitate progression of this habeas corpus case and to resolve the following pending motions: (1) filing no. 24, the Motion to Withdraw filed by the attorney appointed by the court to assist the petitioner in this matter; (2) filing no. 25, the Motion to Remove Counsel filed by the petitioner, JacQaus L. Martin; and (3) filing no. 26, the petitioner's Motion for leave to file his pro se brief in support of his habeas corpus claims.

Because both the petitioner and his court-appointed counsel agree to the withdrawal of the appointed attorney, and the petitioner wishes to proceed pro se, filing nos. 24 and 25 are granted. In addition, filing no. 26 is granted, and the petitioner's brief (filing no. 27) is accepted for filing instant.

Because the petitioner is now proceeding pro se, a few changes to the previously ordered (filing no. 23) progression of this case appear necessary. First, on February 15, 2006, the respondent filed his Answer to the Petition for Writ of Habeas Corpus. The respondent has previously designated the state court records he considers relevant to the disposition of this case (filing no. 9). However, because no attorney will be available to make an independent determination for the petitioner whether any other materials are relevant to this case, the respondent shall now file with the court's CM/ECF system or deliver to the Clerk of Court **all** of the remaining materials having anything whatsoever to do with this case. Such materials include, without limitation, the items which are the subject

of the petitioner's Brady claim, i.e., surveillance tapes and DCS protocol, all briefs, motions, state court decisions at any level, and anything else related to this case which has not previously been provided to the court. The respondent shall file and/or deliver the materials by June 15, 2006.

Second, the record indicates that the respondent has sent a copy to the petitioner of the records designated thus far (filing no. 9). When the respondent provides the court with the additional records discussed above, the respondent shall either deliver a copy of the records to the petitioner or shall file a motion for a protective order as to any item which the respondent believes should not be delivered to the petitioner. If, in the respondent's view, any item should not be shared with the petitioner, the respondent must file with the court and serve on the petitioner a brief in support of his motion generally describing the nature of the withheld material and explaining the legal authority for withholding the material from the petitioner. The respondent shall file with the court and serve on the petitioner any such motion and brief by June 15, 2006.

The deadline for the respondent's brief on the merits of the petitioner's habeas corpus claims is changed from June 16, 2006 to June 30, 2006. The deadline for the petitioner's reply brief is changed from July 17, 2006 to July 31, 2006.

IT IS THEREFORE ORDERED:

1. That filing no. 24, the Motion to Withdraw filed by the petitioner's court-appointed counsel, is granted;
2. That filing no. 25, the petitioner's Motion to Remove Counsel, is granted;
3. That filing no. 26, the petitioner's Motion for leave to file pro se brief, is granted; the brief is accepted for filing instant;
4. That by June 15, 2006, the respondent shall file with, or deliver to, the court **all** materials related to this case which have not previously been provided to the court, including the items which are the subject of the petitioner's Brady claim; by June 15, 2006, the respondent shall serve the same materials on the petitioner, or the respondent may file a motion for protective order supported by a brief;

5. That the deadline for the respondent's brief on the merits of the petitioner's habeas corpus claims is changed from June 16, 2006 to June 30, 2006; and the deadline for the petitioner's reply brief is changed from July 17, 2006 to July 31, 2006.

May 11, 2006.

BY THE COURT:

/s Richard G. Kopf
United States District Judge